

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6868

BILL NUMBER: HB 1293

NOTE PREPARED: Feb 20, 2008

BILL AMENDED: Feb 19, 2008

SUBJECT: Taxation.

FIRST AUTHOR: Rep. GiaQuinta

FIRST SPONSOR: Sen. Bray

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Sales Disclosure Form Changes* - This bill provides, for purposes of the sales disclosure form process for real estate transactions, that: (1) a conveyance includes a transfer to a charity; (2) exceptions are eliminated from the definition of "conveyance document" for documents for certain compulsory transactions or the partition of land; (3) the sales disclosure form is considered to be accurate and complete if it includes information other than additional information required by the department of local government finance; (4) the \$10 filing fee is permanent, but does not apply to a transfer to a charity or if the transfer is under a conveyance document for certain compulsory transactions or the partition of land; (5) the fee revenue is split evenly between the county sales disclosure fund and the state assessment training fund; (6) a separate sales disclosure form is required for each parcel conveyed; (7) the sales disclosure form must include the key number of the parcel subject to the conveyance, the address if the parcel is improved, a legal description for the parcel, and an estimate of the value of any personal property included in the transfer; (8) one party to a transaction may sign a sales disclosure form on behalf of multiple parties; (9) the county recorder may record a conveyance document only if a sales disclosure form approved by the county assessor has been filed; (10) the criminal penalty for knowingly and intentionally falsifying or omitting information on a sales disclosure form is increased; (11) the penalty for filing an incomplete or inaccurate sales disclosure form applies only if the filer fails to correct a deficiency within 30 days of notice; and (12) a paper or electronic sales disclosure form may be used with respect to a homestead assessed as real property to also apply for the homestead credit and certain property tax deductions.

Homeowner Deduction Application Changes - The bill allows for filing of statements to claim the homestead credit and property tax deductions any time during a calendar year with respect to real property, or any time during the designated 12 month filing period with respect to mobile homes and manufactured homes not assessed as real property. It provides that a taxpayer that files for the homestead credit or a property tax

deduction must be the owner or contract buyer only on the filing date, and not on the assessment date to which the credit or deduction applies. It provides that regardless of a change of ownership, the homestead credit or a property tax deduction applies automatically in a year if: (1) the credit or deduction applied in the immediately preceding year; and (2) the current title holder or contract buyer is eligible for the credit or deduction. It allows a county auditor to reduce the assessed value used to set tax rates to take into account deductions resulting from applications filed late in the year. It provides that changes in information reported by the county auditor to political subdivisions resulting from applications filed late in the year do not result in withholding of property tax replacement revenue by the state.

Property Maintenance Area Tax Credit - The bill provides that a municipality may adopt an ordinance establishing a property maintenance area (PMA) and provide grants to individuals that receive a certification from the municipality for property maintenance performed within the PMA.

Amended Property Tax Returns - The bill allows certain taxpayers to claim interstate commerce exemptions for certain inventory for the 2004, 2005, and 2006 assessment dates by filing amended returns before March 1, 2008. It also provides that the amended returns are considered to have been timely filed.

Effective Date: January 1, 2008 (retroactive); Upon Passage; July 1, 2008.

Explanation of State Expenditures: (Revised) *Homeowner Deduction Application Changes* - The state pays Property Tax Replacement Credits (PTRC) in the amount of 60% of school General Fund levies attributable to all property. The state also pays 20% of the portion of operating levies (including the remaining 40% of the school GF levy) that are attributable to real property and nonbusiness personal property. Homestead credits are paid by the state in the amount of 20% of the net property tax due for qualifying funds on owner-occupied residences.

PTRC and Homestead credits are paid from the Property Tax Replacement Fund. In CY 2009, these payments cannot exceed \$2,028.5 M (there is currently no limit for taxes payable in CY 2010 and after). Under current law, if these payments exceed this limit in CY 2009, PTRC rates for all taxpayers would be proportionately reduced in order to keep total payments within this limit. This provision first becomes effective for taxes payable in CY 2009. If, under this bill, additional taxpayers claim the credit, PTRC rates would be further reduced. The number of additional taxpayers who may file for the credit under this bill is not known.

Depending on the appropriation for state credits for years beginning with CY 2010, additional homestead filings could cause an increase in state expenditures.

The bill would also require the Department of Local Government Finance (DLGF) to prescribe a new sales disclosure form before July 1, 2008. The DLGF's current level of resources should be sufficient to implement this change.

Explanation of State Revenues: (Revised) *Homeowner Deduction Application Changes* - The state imposes levies for State Fair and State Forestry at a static tax rate. Under this proposal, the revenue allocated to these funds could decrease beginning in CY 2009 if the number of homestead-eligible taxpayers in a year increased. A taxpayer receiving the homestead credit also receives a standard deduction which can be up to a maximum of \$44,000 depending on the year. Assuming that each additional qualified taxpayer receives the full \$44,000 standard deduction, the tax base would be reduced by this amount for each taxpayer. As a result, the revenues allocated to State Fair and State Forestry would be reduced by approximately \$44,000 x

0.000024 or \$1.06 for each additional taxpayer.

Explanation of Local Expenditures: (Revised) *Homeowner Deduction Application Changes* - As of January 1, 2008, 52 counties provide additional Homestead credits that are paid with proceeds from a combination of county adjusted income taxes (CAGIT), county option income taxes (COIT), and county economic development income taxes (CEDIT). This includes traditional COIT-funded homestead credits, CEDIT-funded credits to mitigate inventory shifts, and credits from the new LOIT options available beginning in 2008.

The potential increase in homestead credits under this proposal would:

1. Increase the cost of COIT-funded homestead credits, thereby reducing the amount of COIT that would be available as certified shares;
2. Increase the cost of CEDIT-funded homestead credits which could result in an increased CEDIT tax rate; and
3. Reduce the percentage of net levies that would be replaced by the new "LOIT #2" credits.

Property Maintenance Area Grants - The bill authorizes municipalities to award grants to individuals who receive PMA certification, to be used for remodeling, repair, or improvement of property within the PMA. The grant is equal to 50% of the "qualified expenditures" made on the taxpayer's property in the PMA and certified by the municipality, up to a maximum of \$1,500. Qualified expenditures must be for remodeling, repair, or improvement of property in the PMA. The amount of grants that could potentially be disbursed is indeterminable and would depend on the number of municipalities that establish PMAs, the scale of the PMAs, and the maintenance expenditures claimed. The fiscal impact from PMA grants could potentially begin in 2009.

Explanation of Local Revenues: (Revised) *Sales Disclosure Form Changes*: Under current law, sales disclosure forms and conveyance documents are used to record the sale or transfer of real property. These documents are filed with the county auditor after being reviewed by the county assessor. This bill makes several changes pertaining to the use of these documents:

1. The definition of a conveyance is extended to include a transfer of real property to a charity.
2. Includes as part of the definition of a "conveyance document" documents as a result of a foreclosure, divorce, court order, condemnation, or probate.
3. Stipulates that the sales disclosure form is considered accurate and complete even if it includes additional information other than that required by the DLGF.
4. Formalizes the filing fee at \$10 but exempts transfers to charities, and transfers occurring because of a foreclosure, divorce, court order, condemnation or probate. Under this proposal, there would be no fiscal impact as the fee (per non-code provision) has been \$10 since 2004, and since 2005 the proceeds have been equally divided between the county sales disclosure fund and the state assessment training fund.
5. Requires a separate sales disclosure form for each parcel conveyed even if the conveyance document covers multiple parcels. The sales disclosure form must include the key number of the parcel subject to conveyance, the address if the parcel is improved, a legal description of the parcel, and an estimate of the value of any personal property included in the transfer.
6. If there are more than two parties to a transaction, one party signing for each side is sufficient. The penalty for willfully falsifying a sales disclosure form is increased from a Class A misdemeanor to a Class C felony. An individual is considered to have willfully falsified a document if he does not correct the error within 30 days of being notified.

7. Only sales disclosure forms approved by the county assessor may be filed. Individuals may use either a paper or an electronic form when applying for the homestead credit and other property tax deductions as described in the *Homeowner Deduction Application Changes* section below.

Homeowner Deduction Application Changes - Under current law a taxpayer may claim a variety of deductions and the homestead credit on homestead property owned on March 1 of the assessment year (Jan 15 for manufactured home and mobile homes). The taxpayer must file an application with the county auditor of the county in which they own the property by June 10 of the assessment year (March 30 for manufactured homes and mobile homes). Taxpayers who receive the homestead credit automatically qualify for the standard deduction.

For taxes payable in CY 2009 and after, this bill would affect the homestead credit and the following deductions – mortgage, elderly, blind, disabled, disabled veterans, WWI veteran and spouse, rehabilitated property, coal conversion system, solar device, wind device, hydroelectric device, geothermal device, and fertilizer storage. This bill would:

1. Qualify an individual who file for the homestead credit and other property tax deductions at any time during the calendar year as long as the individual owns the property by the filing date. Under current law, the taxpayer must be the owner by the assessment date.
2. Enable the taxpayer to use the sales disclosure form (electronic or paper) as a homestead credit and a property tax deduction application form.
3. In the event that the property is sold (even more than once during the year), automatically transfer eligibility for the homestead credit and other applicable property tax deductions to the new owner if he is otherwise eligible, and if the previous owner qualified for the deductions. This provision lasts for the current year only. The new owner would have to file to receive the deductions in subsequent years.

This bill would enable a taxpayer who filed for a deduction after the filing deadline under current law to receive his property tax deduction one year earlier than he normally would. For example, under current law, a taxpayer wishing to receive a deduction in 2009 must file by June 10, 2008. If he is late and files for the deduction in July 2008, for example, he would be first eligible for the deduction in 2010 under current law. Under this bill, however, he would still be eligible to receive the credit/deduction in 2009.

County auditors may currently reduce the certified AV that is used to calculate tax rates in order to absorb the effects expected to result from successful appeals. The maximum adjustment is the lesser of (1) 2% of total AV or (2) the amount of successful appeals in the previous year.

This bill would also allow the certified AV to be adjusted to absorb the effects of any additional homeowner deductions granted after AV is certified. The limit of all adjustments would be 2% of total AV and would no longer be tied to appeals in the previous year.

The reduction of assessed value from the tax base would provide a tax shift from the newly qualified homesteads to other property. The revenue for cumulative funds would be reduced by the product of the fund rate multiplied by the AV reduction applicable to that fund.

Property Maintenance Area Grants - The bill authorizes municipalities to award grants to individuals who receive PMA certification to be used for remodeling, repair, or improvement of property within the PMA. If the individual fails to adhere to the terms of the certification agreement, he has to reimburse the municipality for any grants awarded.

Amended Property Tax Returns - Under the bill, amended returns that were submitted for filing from January 1, 2008 through March 31, 2008, for 2004 Pay 2005 taxes, 2005 Pay 2006 taxes, and 2006 Pay 2007 taxes would be allowed. Taxpayers would be entitled to exemptions claimed on the inventory schedule and on the 103-W (warehouse exemption return).

The bill would also nullify a notice of increased assessed value (AV) from the township assessor. Penalties and interest would not apply to the net increase in taxes resulting from the amended return. In addition, the bill provides that the taxpayer is not entitled to a refund with respect to an amended return filed by the taxpayer.

There is at least one known taxpayer in Marion County that would be affected by this bill. The taxpayer received an increase in the assessment of inventory due to an audit. The increase in net taxes for all three years is unknown. Under current law, the taxpayer does not qualify for exemptions since they were not claimed on a timely filed original or amended return. The taxpayer must pay the entire additional tax bill, plus interest at 10% per year.

Under this bill, the taxpayer would only be required to pay the portion of the tax bill that applies to the non-exempt portion of the added AV. This payment would be without interest. The taxpayer's additional tax liability would be reduced if the amended return is allowed by this bill.

It is unknown whether there are any other taxpayers that could be affected by this provision.

State Agencies Affected: State Fair Board; DNR Division of Forestry; Department of Local Government Finance; State Treasurer.

Local Agencies Affected: County Auditors, County Assessors.

Information Sources:

Fiscal Analyst: Bob Sigalow, 317-232-9859; Jim Landers, 317-232-9869; David Lusan, 317-232-9592.